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| In re Application of HARDIE et al | : | |
| U.S. Application No.: 10/565,058 | : | |
| PCT Application No.: PCT/GB04/03096 | : | |
| Int. Filing Date: 16 July 2004 | : | DECISION |
| Priority Date Claimed: 17 July 2003 | : | |
| Attorney Docket No.: 002.00270 | : | |
| For: METHODS FOR USE OF AN | : | |
| LKB1/STRAD7MO25 COMPLEX | : | |

This is in response to applicant's "Request for Refund of Fees" filed 24 July 2006.

BACKGROUND

On 16 July 2004, applicant filed international application PCT/GB04/03096, which claimed priority of an earlier United Kingdom application filed 17 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 03 February 2005. The thirty-month period for paying the basic national fee in the United States expired on 17 January 2006.

On 17 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 21 April 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 and various fees must be filed.

On 24 July 2006, applicant filed the present request for refund.

DISCUSSION

37 CFR 1.26(a) provides that the Director may refund any fee paid by mistake or in excess of that required.

The present request states that applicant was mistakenly charged \$400.00 for excess independent claims, \$250.00 for excess total claims, and \$360.00 for multiple dependent claims. In view of the preliminary amendment filed 17 January 2006, the stated fees were not required.

A review of the application file reveals that the papers filed 17 January 2006 included 89 pages of sequence listing in paper form and a sequence listing in computer readable form. Although the sequence listing in computer readable form is excluded from the page count for the application size fee under 37 CFR 1.492(j), the sequence listing in paper form is not excluded. See "Questions and Answers concerning the Patent Fee Related Provisions of the Consolidated Appropriations Act, 2005" (<http://www.uspto.gov/web/patents/hr4818/qna.htm#B>), ¶B10. Because the combination of the specification, drawings, and paper sequence listing totals more than 250 pages, \$250.00 will be charged to Deposit Account No. 50-0772 for excess total pages.

CONCLUSION

For the reasons above, the request for refund under 37 CFR 1.26 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 16 July 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 21 June 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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